IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 145 of 2007

DATED: 03.01.2007

Between:

K.Mallesham. **petitioner**

And

The Regional Manager, APSRTC.,
Warangal Regiion, Warangal District
And 2 ors. **Respondents.**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 145 OF 2007

ORAL ORDER:

This writ petition is filed seeking to declare the action of the 3rd respondent in issuing the Proceedings E2/118(1)/91-W-I, dated 16-12-1991 as illegal and arbitrary and consequently set aside the same.

The petitioner is working as a mechanic in the respondent-APSRTC. Disciplinary proceedings were initiated against him and a charge sheet dated 30-4-1991 was issued alleging that the petitioner refused to attend duties for which petitioner gave his explanation on 07-05-1991. However, having not satisfied with the explanation offered by the petitioner, an enquiry was ordered. The enquiry officer conducted an enquiry and submitted his report dated 09.12.1991 holding the charges were proved. The respondent without furnishing copy of the enquiry report and even without issuing a show cause notice, passed final orders dated 16-12-1991 imposing the punishment of deferment of annual increment with cumulative effect. Hence, the present writ petition.

Learned counsel for the petitioner submits that the respondent without furnishing copy of enquiry report and without affording any opportunity of hearing to the petitioner, straight away issued the impugned proceedings imposing punishment. He further submitted that the issue raised in this writ petition is squarely covered by the

orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005.

Learned Standing Counsel for the respondents-Corporation admitted the same. He, however, opposed the relief contending that after considering the entire material on record, the impugned order was passed, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

The issue raised in the present writ petition is squarely covered by the orders of this Court in W.P. 18299 of 2005, dated 05.09.2005. The operative portion of the said order, reads as under:

> "Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.
>
> The writ petition is accordingly disposed of. There shall be no order as to costs."

Since, the issue raised in the writ petition is with regard to imposition of punishment without issuing a show cause notice, which is squarely covered by the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 03-07-1991, passed by respondent, imposing punishment of stoppage of annual increment for a period of one year with cumulative effect, is modified to that of stoppage of annual increment for a period of one year without cumulative effect.

However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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(N.V.RAMANA,J)

DATE: 03-01-2006.
Grk/TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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